

WASHINGTON COUNTY (UTAH). COUNTY RECORDER [1325]

WATER CERTIFICATES AND DEEDS, 1881-1958.

2 microfilm reels

DESCRIPTION: For a time, the Washington County Recorder maintained separate volumes (Record Books V 2, W, W 2 and W 3) to record official documents relating to water rights and irrigation. These records include documents validating the right to use water, including water certificates, notices of appropriation, and certificates of appropriation. They include a variety of deeds conveying water rights, including quit claim deeds, warranty deeds, and agreements. They also include documents relating to disputes over water rights as they were settled by the Water Commission or by 5th District Court. The books also contain extraneous documents. In particular, Book V 2 includes a section of powers of attorney.

The Territorial Legislature passed the first act establishing and regulating water rights in 1880 (Laws of the Territory of Utah, 24th session of the Legislative Assembly, Chapter 20). The Legislature appointed the selectmen of each county to act as a Water Commission to generally oversee the distribution and use of water within their county. The Water Commission evaluated water resources, adjudicated all claims for water use, and issued Water Certificates validating rights to use water and specifying the amount. The law required that these be filed with the county recorder.

The State Legislature revised this procedure in 1897 (Laws of Utah, 1897, Chapter 52). The new law stipulated that rights to unappropriated water could be had by posting notice of a claim. Any person desiring to appropriate water need only post a notice at the point of intended diversion, and also at the nearest post office. On the notice, he needed to state the amount of water he intended to claim, the purpose for which it was intended, the means of diversion, and if for irrigation, the number of acres he intended to irrigated. Within twenty days after posting this claim, the claimant was required to file a Notice of Appropriation with the county recorder. In addition to the information on the notice he had posted, this notice was

also to include the name of the stream and a description of the point of diversion.

In 1905, the Legislature further codified laws regulating irrigation and water rights (Laws of Utah, 1905, Chapter 108). It authorized the State Engineer to grant rights to any unappropriated water within the State. Upon satisfactory completion of the application process, the State Engineer issued a Certificate of Appropriation, and copies were filed in the State Engineer's office as well as with the county recorder. The Legislature further confirmed that when land was sold, the appurtenant water rights could be either transferred, retained or conveyed separately. Water rights are transferred by deed in the same manner as land.

The documents in Books V 2, W, W 1 and W 2 shift from Water Certificates to Notices of Appropriation, and then to Certificates of Appropriation, as the jurisdiction over water rights changed. Many Water Certificates originally issued by the Kane County Water Commission were later recorded in Washington County, because eastern Washington County was originally part of Kane County. The Washington County Water Commission or 5th District Court arbitrated disputes over water rights, and often documents relating to these cases were recorded. Water deeds sometimes transferred water rights from one individual to another, but most frequently transferred rights from an individual to a city or irrigation company. In 1935 the recorder filed numerous quit claim deeds transferring individual water rights to the City of St. George in response to a 5th District Court decision in the case of R.E. Caldwell, State Engineer vs Brigham Carpenter et al.

ARRANGEMENT: The records in these books are arranged chronologically according to date recorded.

RESEARCH NOTE: The books in this series contain extraneous material. It seems that after appropriating a book to one purpose, the county recorder used it for another. The first several pages of Book W involve the legal adoption of Sarah Margia Robinson, handled by the Probate Court in 1885. "Land: notices of location," appears on the title page of Book W, but the book includes only two 1890 notices of location in Pine Valley for farming purposes. A section of Book V 2 was used to record powers of attorney: three documents in 1890, and about a dozen recorded Sep 1922- Jul 1932. The last several pages of Book W 3 were devoted to recording death certificates of persons who died in the 1940s and 1950s.

RELATED RECORDS: The county recorder created a WATER CLAIMS INDEX, series 82708, which not only provides an index to the records in these books, but to documents relating to water rights recorded in others places. These books are also indexed by the GRANTEE INDEXES, series 82703 and GRANTOR INDEXES, series 82704. Prior to 1881, documents about water rights were recorded in Deed Record Books. For example, DEEDS, series 84219 contains articles of agreement between the citizens of Leeds and Harrisburg over water rights on Quail Creek. DEEDS (SAINT GEORGE), series 23286, Book O contains details of arbitration concerning water rights on the Santa Clara River. In DEEDS (SILVER

REEF), series 23263, Book Q contains many deeds conveying individual water rights to the Leeds Water Company in exchange for stock in the company, and Book S contains many deeds conveying water rights on Quail Creek. DEEDS (TOQUERVILLE), series 23265, and DEEDS, (PINE VALLEY), series 23264 also contain additional deeds selling water rights and other documents relating to irrigation companies. WATER CLAIMS AND BREEDER'S CERTIFICATES, series 23254, contains minutes of meetings held by the Washington County Water Commission established in 1880. POWERS OF ATTORNEY INDEX, series 23685, provides an index to the powers of attorney recorded in these books.

PROCESSING NOTE: Washington County Water Certificates and Deeds were microfilmed by Utah State Archives in July 1973 and processed by Rosemary Cundiff in October 2000.

PREFERRED CITATION: Cite the Utah State Archives and Records Service, the creating agency name, the series title, and the series number.

CONTAINER LIST

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